

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

IDA MAE COOPER, DECEASED, BY AND  
THROUGH LEE DORA FIELDS, AS  
ADMINISTRATRIX AND AS REPRESENTATIVE  
OF THE WRONGFUL DEATH BENEFICIARIES  
OF IDA MAE COOPER, DECEASED

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:15-CV-060-GHD-JMV

FRESENIUS MEDICAL CARE HOLDINGS, INC.  
D/B/A FRESENIUS MEDICAL CARE NORTH AMERICA;  
FRESENIUS MEDICAL CENTER - CLARKSDALE  
AND JOHN DOES 1-10

DEFENDANTS

**NOTICE OF REMOVAL**

Defendant, RCG Mississippi, Inc. ("RCG"), by and through counsel, and files this Notice of Removal of this cause to the United States District Court for the Northern District of Mississippi, Greenville Division, and in support would show unto the Court the following:

**THE REMOVED CASE**

1. There was commenced and is now pending in the Circuit Court of Coahoma County, Mississippi, a suit, being cause number 14-CI-15-0020, in which Ida Mae Cooper, Deceased, by and through Lee Dora Fields, as Administratrix and as Representative of the Wrongful Death Beneficiaries of Ida Mae Cooper, is the Plaintiff.

2. RCG Mississippi, Inc. is named as a Defendant in the lawsuit and was served with the Complaint by service on CT Corporation System on April 17, 2015. RCG

Mississippi, Inc. does business in Clarksdale, Mississippi as Fresenius Medical Care - Clarksdale. Plaintiff also attempted service on Fresenius Medical Care - Clarksdale by service of a Summons on its manager, Susan Caudell on April 21, 2014. Fresenius Medical Care - Clarksdale is not a separate legal entity but is only a d/b/a name used by RCG Mississippi, Inc.

3. The Complaint also names Fresenius Medical Care Holdings, Inc. which is a New York corporation with its principal place of business in Waltham, Massachusetts. Fresenius Medical Care Holdings, Inc. is not qualified to do business in Mississippi and is not doing business in Mississippi. Plaintiff served a Summons directed to Fresenius Medical Care North America Holdings LP on Susan Caudell who is the manager of RCG Mississippi, Inc.'s Clarksdale Dialysis Unit. Caudell is not an agent of either Fresenius Medical Care Holdings, Inc. or Fresenius Medical Care North American Holdings LP. Neither of these entities are qualified to business in Mississippi and neither are doing business in Mississippi. The attempted service on Susan Caudell was insufficient and ineffective.

#### **PAPERS FROM THE REMOVED ACTION**

4. A copy of the all process, pleading and orders received or served by/on RCG are attached hereto as collective Exhibit "A." Pursuant to L.U.Civ.R. 5(b), a true and correct copy of the complete file of the Circuit Court will be filed separately.

#### **THE REMOVAL IS TIMELY**

5. RCG Mississippi, Inc. was served with a copy of the Complaint on April 17, 2015. No Defendant has been served a copy of the Complaint more than thirty (30) days

prior to the date of this Notice of Removal. Thus, this notice is timely filed in this Court, within thirty (30) days after the case became removable.

**THE VENUE REQUIREMENT IS MET**

6. Venue of this action is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division encompassing the state court where the action is pending.

**FEDERAL JURISDICTION EXISTS**

7. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, and this cause is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(b).

**A. Diversity Jurisdiction Exists**

8. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, in that it is a civil action between citizens of different states and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

9. Plaintiff is alleged to be a citizen of the State of Mississippi.

10. Defendant RCG Mississippi, Inc. is a Delaware corporation with its principal place of business in Waltham, Massachusetts.

11. The amount in controversy exceeds \$75,000, exclusive of interests and costs.

**CONCLUSION**

12. For the foregoing reasons, this Court has original jurisdiction of the subject matter pursuant to Title 28, United States Code, Section 1332, and Defendant RCG

Mississippi, Inc. has removed this civil action to this Court from the Circuit Court of Coahoma County, Mississippi.

13. Plaintiffs are hereby notified to proceed no further in state court.

14. Written notice of the filing of this notice is being given to the adverse party hereto by mailing, postage prepaid, same to his attorney of record; and RCG Mississippi, Inc. will also file a copy of this Notice with the Clerk of the Circuit Court of Coahoma County, Mississippi.

WHEREFORE, PREMISES CONSIDERED, Defendant TPI Corporation hereby requests that this Court proceed with the handling of this cause as if it had been originally filed herein; and that further proceedings in the state court be hereby stayed.

Dated this the 14<sup>th</sup> day of May, 2015.

Respectfully submitted,

RCG MISSISSIPPI, INC.

BY: /s/JOHN D. PRICE  
JOHN D. PRICE

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I, John D. Price, do hereby certify that on this, May 14, 2015, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent such notification of such filing to the following:

George F. Hollowell, Jr.  
Hollowell Law Firm  
Post Office Drawer 1407  
Greenville, Mississippi 38702-1407

Dated this the 14<sup>th</sup> day of May, 2015.

/s/JOHN D. PRICE  
JOHN D. PRICE